

SECOND REGULAR SESSION

# SENATE BILL NO. 1149

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Read 1st time February 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4554S.03I

## AN ACT

To amend chapter 160, RSMo, by adding thereto one new section relating to drug testing of construction company employees on school property.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.782, to read as follows:

**160.782. 1. Any person who is an employee of an entity that provides construction services under contract on the property of a public or private elementary or secondary school, public vocational school, or public or private junior college, college, university, or any land grant university shall submit to a chemical test for the purpose of determining the illegal drug content of that person's urine prior to working in such an area. The department of health and senior services shall be responsible for administering and analyzing such tests.**

**2. As used in this section, the following terms shall mean:**

**(1) "Verified positive test result", a test result that was positive for an illegal substance on an initial Food and Drug Administration approved immunoassay test, confirmed by a gas chromatography/mass spectrometry assay, or other confirmatory tests approved by the department of health and senior services and reviewed and verified by the medical review officer;**

**(2) "Medical review officer", a licensed physician responsible for receiving laboratory results who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate all positive test results together with a tested individual's medical history and any other relevant biomedical information.**

**3. Any individual subject to testing under this section shall be**

22 permitted to provide urine specimens in private, in a restroom stall or  
23 similar enclosure so that the employee is not observed while providing  
24 the sample. Collection site personnel of the same gender as the  
25 individual tested, however, may observe the individual providing the  
26 urine specimen when such personnel have reason to believe the  
27 individual may alter or substitute the specimen to be  
28 provided. Collection site personnel may have reason to believe that a  
29 particular individual may alter or substitute the specimen to be  
30 provided when the individual:

31 (1) Previously has been found to have tested positive for an  
32 illegal drug; or

33 (2) Previously has tampered with a sample.

34 4. After an individual yields a verified positive test, a contractor  
35 shall not allow such person to work on any school project and may:

36 (1) Take appropriate personnel action against such employee up  
37 to and including termination; and

38 (2) Require such employee to satisfactorily participate in a drug  
39 abuse assistance or rehabilitation program approved for such purposes  
40 by a federal, state, or local health, law enforcement, or other  
41 appropriate agency.

42 5. If an employee yields a negative test result, that result shall  
43 stand for one year, the employee shall be allowed to work on any school  
44 project for that year, and the employee shall not be subjected to  
45 another test during this one-year period.

46 6. The department of health and senior services shall promulgate  
47 rules to implement the provisions of this section, including but not  
48 limited to, choosing appropriate testing facilities, appropriate fees to  
49 be assessed to employers for the adequate administration of such  
50 testing, and establishing procedures for the testing and analysis of test  
51 samples. Any rule or portion of a rule, as that term is defined in  
52 section 536.010, RSMo, that is created under the authority delegated in  
53 this section shall become effective only if it complies with and is  
54 subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
55 section 536.028, RSMo. This section and chapter 536, RSMo, are  
56 nonseverable and if any of the powers vested with the general assembly  
57 pursuant to chapter 536, RSMo, to review, to delay the effective date,  
58 or to disapprove and annul a rule are subsequently held

59 **unconstitutional, then the grant of rulemaking authority and any rule**  
60 **proposed or adopted after August 28, 2006, shall be invalid and void.**

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